1:16 MJ 9274 (WHB)

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

UNITED STATES POSTAL INSPECTION SERVICE

I, BRYON GREEN, DO HEREBY DEPOSE AND SAY:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property, specifically a **LG cellular telephone** seized by your Affiant during the arrest of Andrew Brooks on November 10, 2016, which is currently in law enforcement possession, and the extraction from this device of certain electronically stored information.

2. I am a United States Postal Inspector and have been so employed since October 2006, presently assigned at Cleveland, Ohio to investigate Prohibited Mailing offenses. I have received training in the detection and investigation of prohibited mailing offenses. I have worked U.S. Postal Service related investigations for approximately 10 years, during which time I have been the case agent for investigations leading to prosecution in U.S. District Court, as well as state courts. Over the past 8 years I have investigated cases involving the distribution of narcotics and narcotics proceeds through the U.S. Postal Service.

3. I know based upon training and experience in previous drug investigations, that drug traffickers often use any means available to them to transport narcotics. One common method of smuggling drugs is to ship narcotics via the U.S. Mails. In addition, I know that drug traffickers commonly maintain books, records, receipts, notes, ledgers, financial information, electronic data, and other items relating to the importation, transportation, ordering, purchase, and distribution of illegal drugs, and often this type of information is kept in their electronic devices and electronic data storage devices.

4. I know based on training and experience in previous drug investigations, that individuals involved in the distribution of controlled substances will often use cellular telephones and other electronic communication devices to maintain contact with drug associates, drug sources of supply and drug customers. I know that drug traffickers will often take "trophy" pictures of drugs, money, guns and other items associated with their illegal activities. I know that drug traffickers will often communicate via voice telephone calls, text messages, email and other electronic messaging to one another to facilitate the distribution of controlled substances. I know that individuals using the U.S. Mails for the purpose of transporting controlled substances will often make inquiries on their electronic devices via the Internet to track the delivery status of these parcels.

5. Further, I know that drug traffickers frequently are associated with others involved in the trafficking of illegal substances, and that the names of co-conspirators, sources of drug supply and drug customers, and other data are frequently maintained in electronic format on electronic devices and electronic data storage devices used by such drug traffickers.

6. I submit that that the totality of facts and circumstances included in this affidavit establishes probable cause to believe that evidence relating to violations of: 21 U.S.C. § 841(a)(1), that is possession with intent to distribute and distribution of methamphetamine; 21 U.S.C. § 846, that is conspiracy to distribute and to possess with the intent to distribute methamphetamine; and 21 U.S.C. § 843(b), that is use of a communications device to facilitate a drug trafficking offense, can be found in the electronic device described below.

IDENTIFICATION OF THE DEVICE TO BE EXAMINED

7. The property to be searched consists of:

a. **One LG cellular telephone seized by your Affiant during the arrest of Andrew Brooks on November 10, 2016**

b. The LG cellular telephone was located on Andrew Brooks' person. Your Affiant further seeks authority to conduct a forensic analysis of the devices and seize any communications, documents, records, notes, ledgers, and photographs in electronic format, or other electronic data relating to the importation, transportation, ordering, purchases and distribution of controlled substances, specifically methamphetamine; any records related to the possession, shipment, tracking and delivery of illegal controlled substances, specifically methamphetamine; any information relating to the types, amounts, and prices of drugs trafficked as well as dates, places, and amounts of specific drug transactions; any data reflecting names, addresses, telephone numbers of associates, to include co-conspirators, sources of drug supply and drug customers; any bank records, account information, and other electronic financial records relating to the importation, transportation, ordering, purchases and distribution of controlled substances, specifically methamphetamine; records and evidence the device was used to conduct on-line inquiries to track the delivery status of the U.S. Postal Service ("USPS") Priority Mail parcels referenced in this affidavit, as evidence, fruits, and instrumentalities in furtherance of crimes against the United States as noted above.

c. The **LG cellular telephone** is currently secured at the USPIS within the Northern District of Ohio, Eastern Division.

PROBABLE CAUSE

8. On November 10, 2016, while conducting parcel interdiction at the Cleveland, OH General Mail Facility, your Affiant identified U. S. Postal Service Priority Mail parcel bearing tracking no. 9505512588936313025345 addressed to Maple 1 Stop, 6120 Dunham Road, Maple Heights, OH 44137-4465 bearing a return address of Jose Lopez, 613 N Sierra Ave. Nog AZ 85621 as a suspected drug parcel based on several factors including but not limited to origin, method of mailing, and size.

9. The subject parcel is further described as white cardboard box, weighing approximately 4 pounds 4 ounces. The subject Priority Mail parcel was mailed on November 8, 2016, from Nogales, Arizona 85621.

10. The subject Priority Mail parcel did not require a signature for delivery. Signature Confirmation is not commonly used on drug parcels so the intended recipients do not have to have contact with the delivery employee and/or law enforcement should the parcel be seized.

11. Your Affiant made inquiries with Clear, an electronic database that has proven reliable in previous investigations in determining the legitimacy of name, address, and phone number information, and was able to associate the business name Maple 1 Stop in Clear. However, your Affiant was unable to associate the name Jose Lopez at 613 N Sierra Ave. Nogales, AZ 85621 in Clear.

12. Your Affiant identified 613 N Sierra Ave. Nogales, AZ 85621 is currently for sale and according to Postal Service databases the previous resident, which was not Jose Lopez, submitted a change of address out of 613 N Sierra Ave. on January 1, 2016. No other change of addresses for mail delivery into 613 N Sierra Ave. Nogales, AZ 85621 have been submitted to the Postal Service.

13. On November 10, 2016, the subject parcel was subjected to "Daisy," a narcotic detection canine handled by Detective Patrick Andrejcak of the Cleveland Police Department Canine Unit. According to Detective Andrejcak, Daisy gave a positive alert on the subject parcel. According to Detective Andrejcak, this positive alert meant Daisy detected the odor of an illegal drug emanating from the parcel.

14. Detective Andrejcak and trained narcotics canine Daisy have worked together since 2009. Detective Andrejcak and canine Daisy were both certified in April of 2016 by the Ohio Peace Officers Training Academy (OPOTA) as a specialty purpose K-9 team in the field of narcotic detection. During this time, Daisy was trained and certified to alert to the presence of the odors from marijuana, cocaine, heroin, and methamphetamine. Detective Andrejcak has been trained how to handle detector K-9s and read their alerts. According to Detective Andrejcak, Daisy is a reliable K-9 assist unit.

15. On November 10, 2016, your Affiant obtained and executed a federal search warrant on the subject parcel resulting in the identification of approximately 1 kilogram of field tested positive methamphetamine concealed inside two gift wrapped plastic containers.

16. On November 10, 2016 at approximately 3:00 PM, U.S. Postal Inspectors and members of the Southeast Area Law Enforcement Task Force (SEALE) conducted a controlled delivery of the subject parcel. Prior to delivery, your Affiant removed all but approximately 105 grams of methamphetamine. Postal Inspector M. Adams, acting in an undercover capacity, delivered the subject parcel to the Maple 1 Stop at 6120 Dunham Road, Maple Heights, OH 44137-4465 which was accepted by the owner. Your Affiant witnessed Howard Brown enter the Maple 1 Stop and recover the subject parcel. Under the surveillance of Postal Inspectors and members of SEALE, Howard Brown walked to 15715 Turney Rd. Maple Heights, OH with the subject parcel, entered the residence with the subject parcel, and exited the residence without the subject parcel. Postal Inspectors and members of SEALE immediately secured 15715 Turney Rd. Maple Heights, OH and identified Trisha Byers (Byers) and Michael Whitt inside with the subject parcel on the table.

17. Your Affiant immediately read Byers her rights per Miranda. Byers stated she understood her rights and signed Inspection Service Form 1067, Warning and Waiver of Rights, advising she was willing to answer questions without the presence of her attorney. Byers also signed a consent to search her residence and phone. Byers stated Michael Whitt and Howard Brown were not involved. Byers stated she believed the parcel contained marijuana. Byers stated this is the third parcel she had received. Byers stated Jason Brooks, her son's father, was responsible for all the parcels being mailed. A consensual review of Byers cellular telephone identified a text message she sent to Jason, 623-219-2991, on November 10, 2016 at 10:12 AM that read "Call asap...shit didn't cum". Byers stated Jason Brooks is originally from Mansfield, Ohio, but now she believes he lives in Hermosillo, Mexico. Byers stated Jason Brooks told her he deals directly with cartel members to conduct business. In the presence of Postal Inspectors, Byers placed a voluntary phone call to Jason Brooks, 623-219-2991, and stated she received the "girls." Byers stated she calls marijuana parcels "girls". Jason Brooks stated this has to move and requested her to call Andrew and then stated he would call Andrew to come to Byers' house and pick up the package.

18. Byers stated Andrew Brooks is Jason Brooks' brother and Andrew Brooks was going to pick the parcel up from her. Byers stated Andrew Brooks came to the Maple 1 Stop earlier in the day to recover the parcel, but the letter carrier never delivered it. Members of the SEALE Task Force recovered surveillance video from the Maple 1 Stop which identified Andrew Brooks driving a black Infiniti at the store earlier in the day. In the presence of your Affiant and Postal Inspector M. Kudley, Byers called Andrew Brooks and advised him she had the subject parcel. Andrew Brooks stated he was on his way.

19. On November 10, 2016, at approximately 8:20 PM, U.S. Postal Inspectors and members of SEALE detained Andrew Brooks as he entered 15715 Turney Rd. and attempted to recover the subject parcel. Affiant immediately read Andrew Brooks his rights per Miranda. Andrew Brooks initially consented to the search of a **LG cellular telephone**, which was recovered from his person. Affiant reviewed the **LG cellular telephone** while in Andrew Brooks' presence. During Affiant's review of those text messages on the **LG cellular telephone**, Affiant saw text messages from Jason Brooks, 623-219-2991, stating that the drugs, referred to as "kids," had arrived another text message from Jason Brooks that included the address of the Maple 1 Stop. During Affiant's review of the **LG cellular telephone**, Affiant observed an incoming call from Jason Brooks, 623-219-2991. Andrew Brooks immediately rescinded consent to search the **LG cellular telephone** when noticing the incoming call from 623-219-2991. Brooks refused to answer any questions and requested to go to jail. A search inventory to tow of the Infinity SUV driven by Andrew Brooks identified a $395 wire transfer from Mansfield to Mexico.

20. During review of Postal Service databases, Affiant identified approximately 2 additional parcels suspected of containing methamphetamine sent from Nogales, Arizona to the Maple One Stop since October 2016. Affiant identified approximately 9 additional parcels suspected of containing methamphetamine sent from Nogales, Arizona to the Trisha Byers Turney Rd. residence since September 2016. Affiant identified 6 associated parcels suspected to contain narcotic proceeds sent from Mansfield, OH to PO Box 3135, Nogales, AZ since September 2016.

TECHNICAL TERMS

21. Based on my training and experience, I use the following technical terms to convey the following meanings:

a. Wireless telephone: A wireless telephone (or mobile telephone, or cellular telephone) is a handheld wireless device used for voice and data communication through radio signals. These telephones send signals through networks of transmitter/receivers, enabling communication with other wireless telephones or traditional "land line" telephones. A wireless telephone usually contains a "call log," which records the telephone number, date, and time of calls made to and from the phone. In addition to enabling voice communications, wireless telephones offer a broad range of capabilities. These capabilities include: storing names and phone numbers in electronic "address books;" sending, receiving, and storing text messages and e-mail; taking, sending, receiving, and storing still photographs and moving video; storing and playing back audio files; storing dates, appointments, and other information on personal calendars; and accessing and downloading information from the Internet. Wireless telephones may also include global positioning system ("GPS") technology for determining the location of the device.

b. Digital camera: A digital camera is a camera that records pictures as digital picture files, rather than by using photographic film. Digital cameras use a variety of fixed and removable storage media to store their recorded images. Images can usually be retrieved by connecting the camera to a computer or by connecting the removable storage medium to a separate reader. Removable storage media include various types of flash memory cards or miniature hard drives. Most digital cameras also include a screen for viewing the stored images. This storage media can contain any digital data, including data unrelated to photographs or videos.

c. Portable media player: A portable media player (or "MP3 Player" or iPod) is a handheld digital storage device designed primarily to store and play audio, video, or photographic files. However, a portable media player can also store other digital data. Some portable media players can use removable storage media. Removable storage media include various types of flash memory cards or miniature hard drives. This removable storage media can also store any digital data. Depending on the model, a portable media player may have the ability to store very large amounts of electronic data and may offer additional features such as a calendar, contact list, clock, or games.

d. IP Address: An Internet Protocol address (or simply "IP address") is a unique numeric address used by computers on the Internet. An IP address is a series of four numbers, each in the range 0-255, separated by periods (e.g., 121.56.97.178). Every computer attached to the Internet computer must be assigned an IP address so that Internet traffic sent from and directed to that computer may be directed properly from its source to its destination. Most Internet service providers control a range of IP addresses. Some computers have static—that is, long-term—IP addresses, while other computers have dynamic—that is, frequently changed—IP addresses.

e. Internet: The Internet is a global network of computers and other electronic devices that communicate with each other. Due to the structure of the Internet, connections between devices on the Internet often cross state and international borders, even when the devices communicating with each other are in the same state.

22. Based on my training, experience and research, the **LG cellular telephone** described in Paragraph 7 herein has the capabilities that allow it to serve as a wireless phone, a digital camera, and portable media player and access to the internet, store photographs, documents such as money ledgers, and tracking numbers. In my training and experience, examining data stored on devices of this type can uncover, among other things, evidence that reveals or suggests who possessed or used the device.

ELECTRONIC STORAGE AND FORENSIC ANALYSIS

23. Based on my training, and experience, I know that electronic devices can store information for long periods of time. Similarly, things that have been viewed via the Internet are typically stored for some period of time on the devices like the **LG cellular telephone**. This information can sometimes be recovered with forensic tools.

24. Forensic evidence. As further described in Attachment B, of this application seeks permission to locate not only electronically stored information that might serve as direct evidence of the crimes described on the warrant, but also forensic evidence that establishes how the device was used, the purposes its use, who used it, and when. There is probable cause to believe that this forensic electronic evidence might be on **LG cellular telephone** because data on the storage medium can provide evidence of a file that was once on the storage medium but has since been deleted or edited, or of a deleted portion of a file (such as a paragraph that has been deleted from a word processing file).

25. Forensic evidence on a device can also indicate who has used or controlled the device. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence.

26. A person with appropriate familiarity with how an electronic device works may, after examining this forensic evidence in its proper context, be able to draw conclusions about how electronic devices were used, the purpose of their use, who used them, where, and when.

27. The process of identifying the exact electronically stored information on a storage medium that are necessary to draw an accurate conclusion is a dynamic process. Electronic evidence is not always data that can be merely reviewed by a review team and passed along to investigators. Whether data stored on a computer is evidence may depend on other information stored on the computer and the application of knowledge about how a computer behaves. Therefore, contextual information necessary to understand other evidence also falls within the scope of the warrant.

28. Further, in finding evidence of how a device was used, the purpose of its use, who used it, and when, sometimes it is necessary to establish that a particular thing is not present on a storage medium.

29. Nature of examination. Based on the foregoing, and consistent with Rule 41(e)(2)(B), the warrant I am applying for would permit the examination of the **LG cellular telephone** described in Paragraph 7, consistent with the warrant. The examination may require authorities to employ techniques, including but not limited to computer-assisted scans of the entire medium, that might expose many parts of the device to human inspection in order to determine whether it is evidence described by the warrant.

CONCLUSION

30. Based on the foregoing, I submit there is probable cause to believe that evidence relating to the possession, transportation, shipment and delivery of methamphetamine, can be found within the **LG cellular telephone**. Therefore, your Affiant seeks authorization to conduct a forensic examination of the **LG cellular telephone** in order to identify and seize electronically stored data.

BRYON GREEN
POSTAL INSPECTOR

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 14th DAY OF NOVEMBER, 2016, AT
CLEVELAND, CUYAHOGA COUNTY, OHIO

William H. Baughman, Jr.

WILLIAM H. BAUGHMAN, JR.
U. S. MAGISTRATE JUDGE